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8  
9 **BEFORE THE**  
**BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case Nos. 4981 and 5328

12 **GEE'S HEALTHCARE PHARMACY, INC.,**  
13 **DBA CABRILLO PARK PHARMACY**  
2212 East 4th Street #102  
14 Santa Ana, CA 92705

**FIRST AMENDED ACCUSATION**

15 Pharmacy Permit No. PHY 50066

16 **GEE'S HEALTHCARE PHARMACY, INC.,**  
17 **DBA YORBA PARK PHARMACY**  
2501 E. Chapman Blvd., No. 106  
18 Orange, CA 92869

19 Pharmacy Permit No. PHY 45771

20 **JAMES YING-MING GEE**  
220 Tall Oak  
21 Irvine, CA 92603

22 Pharmacist License No. RPH 44796

23 **SOONG OK CHANG**  
6901 East Rutgers Drive  
24 Anaheim Hills, CA 92807

25 Pharmacist License No. RPH 45540  
26  
27  
28

1 ANH NGOC PHAN  
2 11701 Steele Dr.  
3 Garden Grove, CA 92840

4 Pharmacist License No. RPH 42197

5 Respondents.  
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8 Complainant alleges:

9 **PARTIES**

10 1. Virginia Herold (Complainant) brings this First Amended Accusation solely in her  
11 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer  
12 Affairs.

13 2. On or about April 16, 2002, the Board of Pharmacy issued Pharmacy Permit Number  
14 PHY 45771 to Gee's Healthcare Pharmacy, Inc., doing business as Yorba Park Pharmacy  
15 (Respondent Yorba Park Pharmacy). From April 16, 2002 through the present, Respondent  
16 James Gee has been the President and fifty percent owner of Respondent Yorba Park Pharmacy.  
17 The Pharmacy Permit was in full force and effect at all times relevant to the charges brought  
18 herein and will expire on April 1, 2015, unless renewed.

19 3. On or about September 1, 2009, the Board of Pharmacy issued Pharmacy Permit  
20 Number PHY 50066 to Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park  
21 Pharmacy (Respondent Cabrillo Park Pharmacy). From September 1, 2009, Respondent James  
22 Gee has been the President and fifty percent owner of Cabrillo Park Pharmacy. The Pharmacy  
23 Permit was in full force and effect at all times relevant to the charges brought herein and will  
24 expire on September 1, 2015, unless renewed.

25 4. On or about August 26, 1991, the Board of Pharmacy issued Pharmacist License  
26 Number RPH 44796 to James Ying-Ming Gee (Respondent James Gee.) The Pharmacist License  
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1 was in full force and effect at all times relevant to the charges brought herein and will expire on  
2 April 30, 2015, unless renewed.

3 5. On or about August 14, 1992, the Board of Pharmacy issued Pharmacist License  
4 Number RPH 45540 to Soong OK Chang (Respondent Soong Chang.) The Pharmacist License  
5 was in full force and effect at all times relevant to the charges brought herein and will expire on  
6 September 30, 2015, unless renewed.

7 6. On or about September 20, 1988, the Board of Pharmacy issued Pharmacist License  
8 Number RPH 42197 to Anh Ngoc Phan (Respondent Anh Phan.) The Pharmacist License was in  
9 full force and effect at all times relevant to the charges brought herein and will expire on May 31,  
10 2016, unless renewed.

### 11 JURISDICTION

12 7. This First Amended Accusation is brought before the Board of Pharmacy (Board),  
13 Department of Consumer Affairs, under the authority of the following laws. All section  
14 references are to the Business and Professions Code unless otherwise indicated.

15 8. Section 4011 of the Code provides that the Board shall administer and enforce both  
16 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
17 Act [Health & Safety Code, § 11000 et seq.].

18 9. Section 4300(a) of the Code provides that every license issued by the Board may be  
19 suspended or revoked.

20 10. Section 4300.1 of the Code states:

21 The expiration, cancellation, forfeiture, or suspension of a board-issued license  
22 by operation of law or by order or decision of the board or a court of law, the  
23 placement of a license on a retired status, or the voluntary surrender of a license by a  
24 licensee shall not deprive the board of jurisdiction to commence or proceed with any  
investigation of, or action or disciplinary proceeding against, the licensee or to render  
a decision suspending or revoking the license.

### 25 STATUTORY AND REGULATORY PROVISIONS

26 11. Section 4081 of the Code states in pertinent part:

27 (a) All records of manufacture and of sale, acquisition, or disposition of dangerous  
28 drugs or dangerous devices shall be at all times during business hours open to  
inspection by authorized officers of the law, and shall be preserved for at least

1 three years from the date of making. A current inventory shall be kept by every  
2 manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer,  
3 physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution,  
4 or establishment holding a currently valid and unrevoked certificate, license,  
5 permit, registration, or exemption under Division 2 (commencing with Section  
6 1200) of the Health and Safety Code or under Part 4 (commencing with Section  
7 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock  
8 of dangerous drugs or dangerous devices.

9 (b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary  
10 food-animal drug retailer shall be jointly responsible, with the  
11 pharmacist-in-charge or representative-in-charge, for maintaining the records and  
12 inventory described in this section.

13 12. Section 4301 of the Code states in pertinent part:

14 The board shall take action against any holder of a license who is guilty of  
15 unprofessional conduct or whose license has been procured by fraud or  
16 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is  
17 not limited to, any of the following:

18 ...  
19 (d) The clearly excessive furnishing of controlled substances in violation of  
20 subdivision (a) of Section 11153 of the Health and Safety Code.

21 ...  
22 (j) The violation of any of the statutes of this state, or any other state, or of the  
23 United States regulating controlled substances and dangerous drugs....

24 ...  
25 (e) Violating or attempting to violate, directly or indirectly, or assisting in or  
26 abetting the violation of or conspiring to violate any provision or term of this chapter  
27 or of the applicable federal and state laws and regulations governing pharmacy,  
28 including regulations established by the board or any other state or federal regulatory  
agency.

29 ...  
30 13. Section 4113(c) of the Code states:

31 The pharmacist-in-charge shall be responsible for a pharmacy's compliance  
32 with all state and federal laws and regulations pertaining to the practice of pharmacy.

33 14. Section 4306.5 of the Code states, in pertinent part:

34 Unprofessional conduct for a pharmacist may include any of the following:

35 Acts or omissions that involve, in whole or in part, the inappropriate exercise of  
36 his or her education, training, or experience as a pharmacist, whether or not the act  
37 or omission arises in the course of the practice of pharmacy or the ownership,  
38 management, administration, or operation of a pharmacy or other entity licensed by

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the board.

Acts or omissions that involve, in whole or in part, the failure to consult appropriate patient, prescription, and other records pertaining to the performance of any pharmacy function.

15. Section 4307(a) of the Code states that:

Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner member, officer, director, associate, or partner of any partnership, corporation, firm, or association whose application for a license has been denied or revoked, is under suspension or has been placed on probation, and while acting as the manger, administrator, owner, member, officer, director, associate, or partner had knowledge or knowingly participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manger, administrator, owner, member, officer, director, associate, or partner of a licensee as follows:

(1) Where a probationary license is issued or where an existing license is placed on probation, this prohibition shall remain in effect for a period not to exceed five years.

(2) Where the license is denied or revoked, the prohibition shall continue until the license is issued or reinstated.

16. Health and Safety Code section 11153(a) states:

A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment or as part of an authorized narcotic treatment program, for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use.

17. Section 1707.3 of title 16, California Code of Regulations states:

Prior to consultation as set forth in section 1707.2, a pharmacist shall review a patient's drug therapy and medication record before each prescription drug is delivered. The review shall include screening for severe potential drug therapy problems.

18. Section 1714(b) of title 16, California Code of Regulations states:

Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured

1 and distributed. The pharmacy shall be of sufficient size and unobstructed area to  
2 accommodate the safe practice of pharmacy.

3 19. Section 1715.6 of title 16, California Code of Regulations states:

4 The owner shall report to the Board within thirty (30) days of discovery of any  
5 loss of the controlled substances, including their amounts and strengths.

6 20. Section 1716 of title 16, California Code of Regulations states:

7 Pharmacists shall not deviate from the requirements of a prescription except  
8 upon the prior consent of the prescriber or to select the drug product in accordance  
9 with Section 4073 of the Business and Professions Code.

10 Nothing in this regulation is intended to prohibit a pharmacist from exercising  
11 commonly accepted pharmaceutical practice in the compounding or dispensing of a  
12 prescription.

13 21. Section 1718 of title 16, California Code of Regulations states:

14 "Current Inventory" as used in Section 4081 and 4332 of the Business and  
15 Professions Code shall be considered to include complete accountability for all  
16 dangerous drugs handled by every licensee enumerated in Section 4081 and 4332.

17 The controlled substances inventories required by Title 21, CFR, Section 1304  
18 shall be available for inspection upon request for at least three years.

19 22. Section 1761 of title 16, California Code of Regulations states:

20 (a) No pharmacist shall compound or dispense any prescription which contains  
21 any significant error, omission, irregularity, uncertainty, ambiguity or alteration.  
22 Upon receipt of any such prescription, the pharmacist shall contact the prescriber to  
23 obtain the information needed to validate the prescription.

24 (b) Even after conferring with the prescriber, a pharmacist shall not compound  
25 or dispense a controlled substance prescription where the pharmacist knows or has  
26 objective reason to know that said prescription was not issued for a legitimate  
27 medical purpose.

## 28 COST RECOVERY

23. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
administrative law judge to direct a licensee found to have committed a violation or violations of  
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
enforcement of the case.

1 **DRUGS**

2 24. Dilaudid is the brand name for hydromorphone, a Schedule II controlled substance  
3 pursuant to Health and Safety Code section 11054(b)(J) and a dangerous drug pursuant to  
4 Business and Professions Code section 4022.

5 25. Norco is the brand name for hydrocodone/acetaminophen, a Schedule III controlled  
6 substance pursuant to Health and Safety Code section 11056(e)(5) and a dangerous drug pursuant  
7 to Business and Professions Code section 4022.

8 26. Opana is the brand name for oxymorphone hydrochloride, a Schedule II controlled  
9 substance pursuant to Health and Safety Code section 11054(b)(N) and a dangerous drug pursuant  
10 to Business and Professions Code section 4022.

11 27. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code  
12 section 11054(b)(M) and a dangerous drug pursuant to Business and Professions Code section  
13 4022.

14 28. Phenergan with Codeine is the brand name for promethazine with codeine, a  
15 Schedule V controlled substance pursuant to Health and Safety Code section 111058(c)(1) and is  
16 a dangerous drug pursuant to Business and Professions Code section 4022.

17 29. Xanax is the brand name for alprazolam, a Schedule IV controlled substance pursuant  
18 to Health and Safety Code section 11057(d)(1) and a dangerous drug pursuant to Business and  
19 Professions Code section 4022.

20 **FACTUAL ALLEGATIONS**

21 30. From April 16, 2002 through the present, Respondent James Gee was the Pharmacist-  
22 in-Charge of Respondent Yorba Park Pharmacy. From September 1, 2009 through the present,  
23 Respondent James Gee was the Pharmacist-in-Charge of Respondent Cabrillo Park Pharmacy.  
24 From September 2012 through January 2013, Respondent Soong Chang was a staff pharmacist at  
25 Respondent Cabrillo Park Pharmacy. From June 21, 2012 through November 19, 2013,  
26 Respondent Soong Chang was also a staff pharmacist at Respondent Yorba Park Pharmacy.  
27 From June 21, 2012 through November 19, 2013, Respondent Anh Phan was a staff pharmacist at  
28 Respondent Yorba Park Pharmacy.

1           31. Respondents Cabrillo Park Pharmacy, James Gee and Soong Chang filled  
2 prescriptions for controlled substances which were written by Dr. M.S. from September 24, 2012  
3 through January 11, 2013. Dr. M.S.'s address was listed on the prescriptions filled by  
4 Respondents as being 53 miles away from Respondent Cabrillo Park Pharmacy. Respondent  
5 Cabrillo Park Pharmacy was an average of 65 miles (one way) from the patients' addresses listed  
6 on prescriptions written by Dr. M.S. who had a general practice with a secondary practice in  
7 pediatrics and did not specialize in pain management. Patients paid for the controlled substance  
8 prescriptions in cash at Respondent Cabrillo Park Pharmacy and did not seek reimbursement from  
9 an insurance company or government agency. Patients filled prescriptions for controlled  
10 substances prescribed by multiple physicians during the same time frame at multiple pharmacies.

11           32. Respondents Yorba Park Pharmacy, James Gee, Soong Chang and filled prescriptions  
12 for controlled substances which were written by Dr. M.S. from June 21, 2012 through November  
13 19, 2013. Dr. M.S.'s address was listed on the prescriptions filled by Respondents as being 51  
14 miles away from Respondent Yorba Park Pharmacy. Respondent Yorba Park Pharmacy was an  
15 average of 55 miles (one way) from the patients' addresses listed on prescriptions written by Dr.  
16 M.S. who had a general practice with a secondary practice in pediatrics and did not specialize in  
17 pain management. Patients paid for the controlled substance prescriptions in cash at Respondent  
18 Yorba Park Pharmacy and did not seek reimbursement from an insurance company or  
19 government agency. Patients filled prescriptions for controlled substances prescribed by multiple  
20 physicians during the same time frame at multiple pharmacies.

21           33. Dr. M.S.'s prescriptions for controlled substances were written in an identical fashion  
22 for multiple patients as follows: (1) hydrocodone/APAP 10/325, with directions to take 1-2  
23 tablets three times a day in a quantity of 90-100; (2) alprazolam 2 mg with directions to take 1  
24 tablet three times a day in a quantity of 90; and (3) oxycodone 30mg with directions to take 1  
25 tablet three times a day in a quantity of 90. There was no adjustment in the prescribing pattern  
26 for sex, age, weight, renal or hepatic function, race, diagnosis, past medications used or any other  
27 patient related factor. None of the "chronic pain patients" being treated by Dr. M.S. were  
28 receiving a long acting pain medication to control their baseline pain. Certain prescriptions filled



1 by Respondents Cabrillo Park Pharmacy, James Gee and Soong Chang were not signed by Dr.  
2 M.S. and other prescriptions were filled by them even though they were signed by a physician  
3 who was not the prescribing physician.

4 34. Additionally, drivers picked up the controlled substances for multiple patients from  
5 Respondents Cabrillo Park Pharmacy, James Gee and Soong Chang, rather than the patients  
6 themselves picking up their prescriptions. Respondents Cabrillo Park Pharmacy, James Gee and  
7 Soong Chang did not possess written authorization allowing those drivers to pick up the  
8 controlled substance prescriptions for patients. To facilitate the drug transactions with the  
9 drivers, Respondents Cabrillo Park Pharmacy, James Gee and Soong Chang kept envelopes  
10 which contained prescriptions for controlled substances to be filled, next to the cash register.  
11 Respondents Cabrillo Park Pharmacy, James Gee and Soong Chang telephoned the drivers to  
12 initiate a pick up when they had filled all the multiple prescriptions for controlled substances. In  
13 that same drawer, Respondents Cabrillo Park Pharmacy, James Gee and Soong Chang kept a  
14 pricing sheet for controlled substances and the telephone numbers of the drivers to further  
15 facilitate these drug transactions with the drivers.

16 35. Respondents Cabrillo Park Pharmacy, Yorba Park Pharmacy and James Gee placed  
17 orders for suspiciously large amounts of controlled substances with their drug wholesalers.  
18 Notwithstanding those orders, Respondents Cabrillo Park Pharmacy and James Gee did not  
19 dispense all the prescriptions for controlled substances in a timely manner as prescribed, because  
20 they sought to avoid charges that they were excessively prescribing controlled substances from  
21 the Drug Enforcement Administration and the Board.

22 36. Respondents Cabrillo Park Pharmacy, Yorba Park Pharmacy, James Gee, Soong  
23 Chang and Anh Phan did not follow proper procedures for verifying if a prescription for a  
24 controlled substance was written for a legitimate medical purpose. Indeed, Respondents Cabrillo  
25 Park Pharmacy, Yorba Park Pharmacy, James Gee, Soong Chang and Anh Phan dispensed  
26 prescriptions to patients who had lost their wallets or social security cards and had been victims  
27 of identity theft. And, Respondents' furnishings of controlled substances was higher than  
28 neighboring pharmacies during the same time frame.

1 37. On or about February 6, 2014, Dr. M.S. was arrested for violating Business and  
2 Professions Code section 2052(b), Health and Safety Code section 11353(a), 11353(c) and 11354.  
3 On or about February 10, 2014, a felony Complaint was filed against Dr. M.S. for violating those  
4 code sections, among other violations.

5 38. Respondents Cabrillo Park Pharmacy and James Gee also had discrepancies in their  
6 drug inventory. From June 2012 through January 2013, Respondents Cabrillo Park Pharmacy and  
7 James Gee suffered the following losses of controlled substances: 734 tablets of  
8 hydrocodone/APAP 10mg/325mg and 20 tablets of hydromorphone 4mg. They did not report  
9 those losses to the Board.

10 39. Respondents Cabrillo Park Pharmacy and James Gee's inventory contained overages  
11 of 165 tablets of alprazolam 2mg and 152 tablets of oxycodone 30mg. Therefore, they did not  
12 maintain complete records of acquisition for those controlled substances.

13 40. Respondents Yorba Park Pharmacy and James Gee also had discrepancies in their  
14 drug inventory. From January 31, 2013 through December 3, 2013, Respondents Yorba Park  
15 Pharmacy and James Gee suffered the following losses of controlled substances: 6,332 tablets of  
16 alprazolam 2mg, 44,111 tablets of oxycodone 30mg, 14,183 of hydrocodone/APAP 10mg/325mg  
17 and 49,855mls or 105 pints (bottles) of promethazine with codeine. They did not report those  
18 losses to the Board until prompted to do so by a Board inspector.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Failure to Maintain Current Inventory of Controlled Substance against Respondents**

21 **Yorba Park Pharmacy, Cabrillo Park Pharmacy and James Gee)**

22 41. Respondents Cabrillo Park Pharmacy, Yorba Park Pharmacy and James Gee are  
23 subject to disciplinary action under Code section 4301(o), for violating title 16, California Code  
24 of Regulations, section 1718, in that they did not maintain a current inventory of controlled  
25 substances, alprazolam, oxycodone, hydrocodone/APAP and hydromorphone, and suffered losses  
26 in their inventory of alprazolam, oxycodone, hydrocodone/APAP, hydromorphone and  
27 promethazine with codeine, as set forth in paragraphs 30 through 40 above, which are  
28 incorporated herein by reference.

1 **SECOND CAUSE FOR DISCIPLINE**

2 (Failure to Report Drug Losses against Respondents

3 Yorba Park Pharmacy, Cabrillo Park Pharmacy and James Gee)

4 42. Respondents Cabrillo Park Pharmacy, Yorba Park Pharmacy and James Gee are  
5 subject to disciplinary action under Code section 4301(o), for violating title 16, California Code  
6 of Regulations, section 1715.6, in that Cabrillo Park Pharmacy and James Gee did not report the  
7 losses of hydrocodone/APAP and hydromorphone and Yorba Park Pharmacy and James Gee did  
8 not report the losses of alprazolam, oxycodone, hydrocodone/APAP and promethazine with  
9 codeine to the Board, as set forth in paragraphs 30 through 40 above, which are incorporated  
10 herein by reference.

11 **THIRD CAUSE FOR DISCIPLINE**

12 (Failure to Provide Adequate Security for Controlled Substance

13 against Respondents Yorba Park Pharmacy, Cabrillo Park Pharmacy and James Gee)

14 43. Respondents Cabrillo Park Pharmacy, Yorba Park Pharmacy and James Gee are  
15 subject to disciplinary action under Code section 4301(o), for violating title 16, California Code  
16 of Regulations, section 1714(b), in that Cabrillo Park Pharmacy and James Gee did not provide  
17 adequate security for hydrocodone/APAP and hydromorphone and Yorba Park Pharmacy and  
18 James Gee did not provide adequate security for alprazolam, oxycodone, hydrocodone/APAP and  
19 promethazine with codeine, as set forth in paragraphs 30 through 40 above, which are  
20 incorporated herein by reference.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 (Failure to Maintain Records of Acquisition against Respondents Cabrillo Park Pharmacy  
23 and James Gee)

24 44. Respondents Cabrillo Park Pharmacy and James Gee are subject to disciplinary action  
25 under Code section 4301(o), for violating Code section 4081(a), in that they failed to maintain all  
26 the records of acquisition for the controlled substances, alprazolam 2mg and oxycodone 30mg, as  
27 set forth in paragraphs 30 through 40, which are incorporated herein by reference.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Failing to Comply with Corresponding Responsibility**  
3 **for Legitimate Controlled Substance Prescriptions against Respondents)**

4 45. Respondents are subject to disciplinary action under Code section 4301(j), for  
5 violating Health and Safety Code section 11153(a), in that they failed to comply with their  
6 corresponding responsibility to ensure that controlled substances were dispensed for a legitimate  
7 medical purpose when Respondents furnished prescriptions for controlled substances even though  
8 "red flags" were present, indicating those prescriptions were not issued for a legitimate medical  
9 purpose, as set forth in paragraphs 30 through 40 above, which are incorporated herein by  
10 reference.

11 **SIXTH CAUSE FOR DISCIPLINE**

12 **(Clearly Excessive Furnishing of Controlled Substances against Respondents)**

13 46. Respondents are subject to disciplinary action under Code section 4301(d), for the  
14 clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section  
15 11153 of the Health and Safety Code, as set forth in paragraphs 30 through 40 above, which are  
16 incorporated herein by reference.

17 **SEVENTH CAUSE FOR DISCIPLINE**

18 **(Dispensing Controlled Substance Prescriptions with Significant Errors, Omissions,**  
19 **Irregularities, Uncertainties, Ambiguities or Alterations against Respondents)**

20 47. Respondents are subject to disciplinary action under Code section 4301(o), for  
21 violating title 16, California Code of Regulations, sections 1761(a) and (b) in that they dispensed  
22 prescriptions for controlled substances, which contained significant errors, omissions,  
23 irregularities, uncertainties, ambiguities or alterations, as set forth in paragraphs 30 through 40  
24 above, which are incorporated herein by reference.

1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Failure to Review Patients' Medication Record Before Prescription Drugs Delivered**  
3 **against Respondents)**

4 48. Respondents are subject to disciplinary action under Code section 4301(o), for  
5 violating title 16, California Code of Regulations, section 1707.3, in that they dispensed  
6 prescriptions for drugs, without review of patients' medication records before each prescription  
7 drug was delivered. Such a review would have revealed numerous "red flags," as set forth in  
8 paragraphs 30 through 40 above, which are incorporated herein by reference.

9 **NINTH CAUSE FOR DISCIPLINE**

10 **(Dispensing Controlled Substances with Variations from Prescriptions against**  
11 **Respondents Cabrillo Park Pharmacy and James Gee)**

12 49. Respondents Cabrillo Park Pharmacy and James Gee are subject to disciplinary action  
13 under Code section 4301(o) for violating title 16, California Code of Regulations, section 1716, in  
14 that they dispensed controlled substances which deviated from the requirements of the  
15 prescriptions without the prior consent of the prescribers and dispensed controlled substances  
16 when the prescriptions were prescribed by Dr. M.S. but signed by another physician, as set forth  
17 in paragraphs 30 through 40, which are incorporated herein by reference.

18 **TENTH CAUSE FOR DISCIPLINE**

19 **(Failure to Exercise or Implement Best Professional Judgment or Corresponding**  
20 **Responsibility when Dispensing Controlled Substances**  
21 **against Respondents James Gee Soong Chang and Anh Phan)**

22 50. Respondents James Gee, Soong Chang and Anh Phan are subject to disciplinary  
23 action under Code section 4301(o), for violating Business and Professions Code section 4306.5(a)  
24 and (b), in that they failed to exercise or implement his or her best professional judgment or  
25 corresponding responsibility when dispensing controlled substances, as set forth in paragraphs 30  
26 through 40 above, which are incorporated herein by reference.

1 ELEVENTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct against Respondents)

3 51. Respondents are subject to disciplinary action under Code section 4301 for  
4 unprofessional conduct in that they engaged in the activities described in paragraphs 30 through  
5 40 above, which are incorporated herein by reference.

6 **OTHER MATTERS**

7 52. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit  
8 Numbers PHY 45771 issued to Gee's Healthcare Pharmacy, Inc., doing business as Yorba Park  
9 Pharmacy and PHY 50066 issued to Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo  
10 Park Pharmacy, Gee's Healthcare Pharmacy, Inc., doing business as Yorba Park Pharmacy and  
11 Cabrillo Park Pharmacy shall be prohibited from serving as a manager, administrator, owner,  
12 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit  
13 Numbers PHY 45771 and PHY 50066 are placed on probation or until Pharmacy Permit  
14 Numbers PHY 45771 and PHY 50066 are reinstated if they are revoked.

15 53. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit  
16 Numbers PHY 45771 issued to Gee's Healthcare Pharmacy, Inc., doing business as Yorba Park  
17 Pharmacy and PHY 50066 issued to Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo  
18 Park Pharmacy while James Ying-Ming Gee has been an officer and owner and had knowledge  
19 of or knowingly participated in any conduct for which the licensee was disciplined, James Ying-  
20 Ming Gee shall be prohibited from serving as a manager, administrator, owner, member, officer,  
21 director, associate, or partner of a licensee for five years if Pharmacy Permit Numbers PHY  
22 45771 and PHY 50066 are placed on probation or until Pharmacy Permit Numbers PHY 45771  
23 and PHY 50066 are reinstated if they are revoked.

24 54. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License  
25 No. RPH 44796 issued to James Ying-Ming Gee, James Ying-Ming Gee shall be prohibited from  
26 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a  
27 licensee for five years if Pharmacist License Number RPH 44796 is placed on probation or until  
28 Pharmacist License Number RPH 44796 is reinstated if it is revoked.

1 **DISCIPLINARY CONSIDERATIONS**

2 55. To determine the degree of discipline, if any, to be imposed on Respondents,  
3 Complainant alleges:

4 a. On February 22, 2012, the Board issued Citation number CI 2011 49857  
5 against Respondent Cabrillo Park Pharmacy for violating Business and Professions Code section  
6 4126.5(a)(4) for improperly furnishing drugs to a wholesaler. The Board issued a fine which  
7 Respondent paid.

8 b. On February 23, 2012, the Board issued a Letter of Admonishment to  
9 Respondent James Gee for violating Business and Professions Code section 4126.5(a)(4) for  
10 improperly furnishing drugs to a wholesaler.

11 c. On March 10, 1999, the Board issued Citation Number CI 1996 14411 against  
12 Soong Chang for violating title 16, California Code of Regulations, section 1707.2 for failing to  
13 provide oral consultation to a patient. The Board issued a fine which Respondent paid.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
16 and that following the hearing, the Board of Pharmacy issue a decision:

17 1. Revoking or suspending Pharmacy Permit Number PHY 45771, issued to Gee's  
18 Healthcare Pharmacy, Inc., doing business as Yorba Park Pharmacy;

19 2. Revoking or suspending Pharmacy Permit Number PHY 50066, issued to Gee's  
20 Healthcare Pharmacy, Inc., doing business as Cabrillo Park Pharmacy;

21 3. Revoking or suspending Pharmacist License Number RPH 44796, issued to James  
22 Ying-Ming Gee;

23 4. Revoking or suspending Pharmacist License Number RPH 45540, issued to Soong  
24 OK Chang;

25 5. Revoking or suspending Pharmacist License Number RPH 42197, issued to Ang  
26 Ngoc Phan;

27 6. Prohibiting Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park  
28 Pharmacy and Yorba Park Pharmacy from serving as a manager, administrator, owner, member,

1 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Numbers  
2 PHY 45771 and PHY 50066 are placed on probation or until Pharmacy Permit Numbers PHY  
3 45771 and PHY 50066 are reinstated if Pharmacy Permit Numbers 45771 and 5006 issued to  
4 Gee's Healthcare Pharmacy, Inc. doing business as Cabrillo Park Pharmacy and Yorba Park  
5 Pharmacy are revoked;

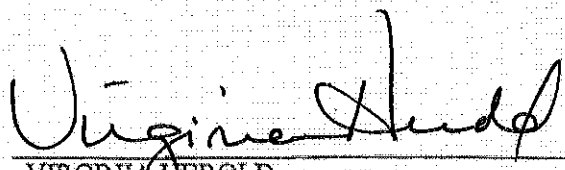
6 7. Prohibiting James Ying-Ming Gee from serving as a manager, administrator, owner,  
7 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit  
8 Numbers PHY 45771 and PHY 50066 are placed on probation or until Pharmacy Permit  
9 Numbers PHY 45771 and PHY 50066 are reinstated if Pharmacy Permit Numbers 45771 and  
10 5006 issued to Gee's Healthcare Pharmacy, Inc. doing business as Cabrillo Park Pharmacy and  
11 Yorba Park Pharmacy are revoked;

12 8. Prohibiting James Ying-Ming Gee from serving as a manager, administrator, owner,  
13 member, officer, director, associate, or partner of a licensee for five years if Pharmacist License  
14 Number RPH 44796 is placed on probation or until Pharmacist License Number RPH 44796 is  
15 reinstated if Pharmacist License Number RPH 44796 issued to James Ying-Ming Gee is  
16 revoked;

17 9. Ordering Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park  
18 Pharmacy, Ordering Gee's Healthcare Pharmacy, Inc., doing business as Yorba Park Pharmacy  
19 James Ying-Ming Gee, Soong OK Chang and Anh Ngoc Phan to pay the Board of Pharmacy the  
20 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
21 Professions Code section 125.3;

22 10. Taking such other and further action as deemed necessary and proper.

23  
24 DATED: 3/24/15



VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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8  
9 **BEFORE THE**  
**BOARD OF PHARMACY**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 4981

12 **GEE'S HEALTHCARE PHARMACY, INC.,**  
13 **DBA CABRILLO PARK PHARMACY**  
2212 East 4th Street #102  
14 Santa Ana, CA 92705

**A C C U S A T I O N**

15 Pharmacy Permit No. PHY 50066

16 **SOONG OK CHANG**  
6901 East Rutgers Drive  
17 Anaheim Hills, CA 92807

18 Pharmacist License No. RPH 45540

19 **JAMES YING-MING GEE**  
220 Tall Oak  
20 Irvine, CA 92603

21 Pharmacist License No. RPH 44796

22 Respondents.

23  
24  
25 Complainant alleges:

26 **PARTIES**

27 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
28 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

1 2. On or about September 1, 2009, the Board of Pharmacy issued Pharmacy Permit  
2 Number PHY 50066 to Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park  
3 Pharmacy (Respondent Cabrillo Park Pharmacy). The Pharmacy Permit was in full force and  
4 effect at all times relevant to the charges brought herein and will expire on September 1, 2015,  
5 unless renewed.

6 3. On or about August 14, 1992, the Board of Pharmacy issued Pharmacist License  
7 Number RPH 45540 to Soong OK Chang (Respondent Soong Chang.) The Pharmacist License  
8 was in full force and effect at all times relevant to the charges brought herein and will expire on  
9 September 30, 2015, unless renewed.

10 4. On or about August 26, 1991, the Board of Pharmacy issued Pharmacist License  
11 Number RPH 44796 to James Ying-Ming Gee (Respondent James Gee.) The Pharmacist License  
12 was in full force and effect at all times relevant to the charges brought herein and will expire on  
13 April 30, 2015, unless renewed.

14 **JURISDICTION**

15 5. This Accusation is brought before the Board of Pharmacy (Board), Department of  
16 Consumer Affairs, under the authority of the following laws. All section references are to the  
17 Business and Professions Code unless otherwise indicated.

18 6. Section 4011 of the Code provides that the Board shall administer and enforce both  
19 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
20 Act [Health & Safety Code, § 11000 et seq.].

21 7. Section 4300(a) of the Code provides that every license issued by the Board may be  
22 suspended or revoked.

23 8. Section 4300.1 of the Code states:

24 The expiration, cancellation, forfeiture, or suspension of a board-issued license  
25 by operation of law or by order or decision of the board or a court of law, the  
26 placement of a license on a retired status, or the voluntary surrender of a license by a  
27 licensee shall not deprive the board of jurisdiction to commence or proceed with any  
28 investigation of, or action or disciplinary proceeding against, the licensee or to render  
a decision suspending or revoking the license.

1 **STATUTORY AND REGULATORY PROVISIONS**

2 9. Section 4081 of the Code states in pertinent part:

3 (a) All records of manufacture and of sale, acquisition, or disposition of dangerous  
4 drugs or dangerous devices shall be at all times during business hours open to  
5 inspection by authorized officers of the law, and shall be preserved for at least  
6 three years from the date of making. A current inventory shall be kept by every  
7 manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer,  
8 physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution,  
9 or establishment holding a currently valid and unrevoked certificate, license,  
10 permit, registration, or exemption under Division 2 (commencing with Section  
11 1200) of the Health and Safety Code or under Part 4 (commencing with Section  
12 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock  
13 of dangerous drugs or dangerous devices.

14 (b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary  
15 food-animal drug retailer shall be jointly responsible, with the  
16 pharmacist-in-charge or representative-in-charge, for maintaining the records and  
17 inventory described in this section.

18 10. Section 4301 of the Code states in pertinent part:

19 The board shall take action against any holder of a license who is guilty of  
20 unprofessional conduct or whose license has been procured by fraud or  
21 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is  
22 not limited to, any of the following:

23 ...

24 (j) The violation of any of the statutes of this state, or any other state, or of the  
25 United States regulating controlled substances and dangerous drugs....

26 ...

27 (o) Violating or attempting to violate, directly or indirectly, or assisting in or  
28 abetting the violation of or conspiring to violate any provision or term of this chapter  
or of the applicable federal and state laws and regulations governing pharmacy,  
including regulations established by the board or any other state or federal regulatory  
agency.

...

11. Section 4113(c) of the Code states:

The pharmacist-in-charge shall be responsible for a pharmacy's compliance  
with all state and federal laws and regulations pertaining to the practice of pharmacy.

12. Section 4306.5 of the Code states, in pertinent part:

Unprofessional conduct for a pharmacist may include any of the following:

1 Acts or omissions that involve, in whole or in part, the inappropriate exercise of  
2 his or her education, training, or experience as a pharmacist, whether or not the act  
3 or omission arises in the course of the practice of pharmacy or the ownership,  
4 management, administration, or operation of a pharmacy or other entity licensed by  
5 the board.

6 Acts or omissions that involve, in whole or in part, the failure to consult  
7 appropriate patient, prescription, and other records pertaining to the performance of  
8 any pharmacy function.

9 ...  
10 13. Health and Safety Code section 11153(a) states:

11 A prescription for a controlled substance shall only be issued for a legitimate  
12 medical purpose by an individual practitioner acting in the usual course of his or her  
13 professional practice. The responsibility for the proper prescribing and dispensing of  
14 controlled substances is upon the prescribing practitioner, but a corresponding  
15 responsibility rests with the pharmacist who fills the prescription. Except as  
16 authorized by this division, the following are not legal prescriptions: (1) an order  
17 purporting to be a prescription which is issued not in the usual course of  
18 professional treatment or in legitimate and authorized research; or (2) an order for an  
19 addict or habitual user of controlled substances, which is issued not in the course of  
20 professional treatment or as part of an authorized narcotic treatment program, for the  
21 purpose of providing the user with controlled substances, sufficient to keep him or  
22 her comfortable by maintaining customary use.

23 ....  
24 14. Section 1707.3 of title 16, California Code of Regulations states:

25 Prior to consultation as set forth in section 1707.2, a pharmacist shall review a  
26 patient's drug therapy and medication record before each prescription drug is  
27 delivered. The review shall include screening for severe potential drug therapy  
28 problems.

15. Section 1714(b) of title 16, California Code of Regulations states:

Each pharmacy licensed by the board shall maintain its facilities, space, fixtures,  
and equipment so that drugs are safely and properly prepared, maintained, secured  
and distributed. The pharmacy shall be of sufficient size and unobstructed area to  
accommodate the safe practice of pharmacy.

16. Section 1715.6 of title 16, California Code of Regulations states:

The owner shall report to the Board within thirty (30) days of discovery of any  
loss of the controlled substances, including their amounts and strengths.

17. Section 1716 of title 16, California Code of Regulations states:

Pharmacists shall not deviate from the requirements of a prescription except  
upon the prior consent of the prescriber or to select the drug product in accordance  
with Section 4073 of the Business and Professions Code.

Nothing in this regulation is intended to prohibit a pharmacist from exercising

1 commonly accepted pharmaceutical practice in the compounding or dispensing of a  
2 prescription.

3 18. Section 1718 of title 16, California Code of Regulations states:

4 "Current Inventory" as used in Section 4081 and 4332 of the Business and  
5 Professions Code shall be considered to include complete accountability for all  
6 dangerous drugs handled by every licensee enumerated in Section 4081 and 4332.

7 The controlled substances inventories required by Title 21, CFR, Section 1304  
8 shall be available for inspection upon request for at least three years.

9 19. Section 1761 of title 16, California Code of Regulations states:

10 (a) No pharmacist shall compound or dispense any prescription which contains  
11 any significant error, omission, irregularity, uncertainty, ambiguity or alteration.  
12 Upon receipt of any such prescription, the pharmacist shall contact the prescriber to  
13 obtain the information needed to validate the prescription.

14 (b) Even after conferring with the prescriber, a pharmacist shall not compound  
15 or dispense a controlled substance prescription where the pharmacist knows or has  
16 objective reason to know that said prescription was not issued for a legitimate  
17 medical purpose.

#### 18 COST RECOVERY

19 20. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
20 administrative law judge to direct a licensee found to have committed a violation or violations of  
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
22 enforcement of the case.

#### 23 DRUGS

24 21. Dilaudid is the brand name for hydromorphone, a Schedule II controlled substance  
25 pursuant to Health and Safety Code section 11054(b)(J) and a dangerous drug pursuant to  
26 Business and Professions Code section 4022.

27 22. Norco is the brand name for hydrocodone/acetaminophen, a Schedule III controlled  
28 substance pursuant to Health and Safety Code section 11056(e)(5) and a dangerous drug pursuant  
to Business and Professions Code section 4022.

29 23. Opana is the brand name for oxycodone hydrochloride, a Schedule II controlled  
substance pursuant to Health and Safety Code section 11054(b)(N) and a dangerous drug pursuant  
to Business and Professions Code section 4022.

1           24.   Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code  
2 section 11054(b)(M) and a dangerous drug pursuant to Business and Professions Code section  
3 4022.

4           25.   Xanax is the brand name for alprazolam, a Schedule IV controlled substance pursuant  
5 to Health and Safety Code section 11057(d)(1) and a dangerous drug pursuant to Business and  
6 Professions Code section 4022.

7   **FACTUAL ALLEGATIONS**

8           26.   From September 1, 2009 through the present, Respondent James Gee was the  
9 Pharmacist-in-Charge of Respondent Cabrillo Park Pharmacy. From September 2012 through  
10 January 2013, Respondent Soong Chang was a staff pharmacist at Respondent Cabrillo Park  
11 Pharmacy.

12           27.   Respondents filled prescriptions for controlled substances which were written by Dr.  
13 M.S. from September 24, 2012 through January 11, 2013. Dr. M.S.'s address was listed on the  
14 prescriptions filled by Respondents as being 53 miles away from Respondent Cabrillo Park  
15 Pharmacy. Respondent Cabrillo Park Pharmacy was an average of 65 miles (one way) from the  
16 patients' addresses listed on prescriptions written by Dr. M.S. who had a general practice with a  
17 secondary practice in pediatrics and did not specialize in pain management. Patients paid for the  
18 controlled substance prescriptions in cash at Respondent Cabrillo Park Pharmacy and did not seek  
19 reimbursement from an insurance company or government agency.

20           28.   Dr. M.S.'s prescriptions for controlled substances were written in an identical fashion  
21 for multiple patients as follows: (1) hydrocodone/APAP 10/325, with directions to take 1-2 tablets  
22 three times a day in a quantity of 90-100; (2) alprazolam 2 mg with directions to take 1 tablet  
23 three times a day in a quantity of 90; and (3) oxycodone 30mg with directions to take 1 tablet  
24 three times a day in a quantity of 90. Certain prescriptions filled by Respondents were not signed  
25 by Dr. M.S. and other prescriptions were filled by Respondents even though they were signed by a  
26 physician who was not the prescribing physician.

27           29.   Additionally, drivers picked up the controlled substances for multiple patients from  
28 Respondents, rather than the patients themselves picking up their prescriptions. Respondents did

1 not possess written authorization allowing those drivers to pick up the controlled substance  
2 prescriptions for multiple patients. To facilitate the drug transactions with the drivers,  
3 Respondents kept envelopes which contained prescriptions for controlled substances to be filled,  
4 next to the cash register. Respondents telephoned the drivers to initiate a pick up when they had  
5 filled all the multiple prescriptions for controlled substances. In that same drawer, Respondents  
6 kept a pricing sheet for controlled substances and the telephone numbers of the drivers to further  
7 facilitate these drug transactions with the drivers.

8 30. Respondents Cabrillo Park Pharmacy and James Gee placed orders for suspiciously  
9 large amounts of controlled substances with their drug wholesaler. Notwithstanding those orders,  
10 Respondents did not dispense all the prescriptions for controlled substances in a timely manner as  
11 prescribed, because they sought to avoid charges that they were excessively prescribing controlled  
12 substances from the Drug Enforcement Administration and the Board.

13 31. Respondents did not follow proper procedures for verifying if a prescription for a  
14 controlled substance was written for a legitimate medical purpose. Indeed, Respondents  
15 dispensed prescriptions to patients who had lost their wallets or social security cards and had been  
16 victims of identity theft. And, Respondent's furnishings of controlled substances was higher than  
17 neighboring pharmacies during the same time frame.

18 32. Respondents also had discrepancies in their drug inventory. From June 2012 through  
19 January 2013, Respondents Cabrillo Park Pharmacy and James Gee suffered the following losses  
20 of controlled substances: 734 tablets of hydrocodone/APAP 10mg/325mg and 20 tablets of  
21 hydromorphone 4mg. They did not report those losses to the Board.

22 33. Respondents Cabrillo Park Pharmacy and James Gee's inventory contained overages  
23 of 165 tablets of alprazolam 2mg and 152 tablets of oxycodone 30mg. Therefore, they did not  
24 maintain complete records of acquisition for those controlled substances.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Current Inventory of Controlled Substance against Respondents**  
3 **Cabrillo Park Pharmacy and James Gee)**

4 34. Respondents Cabrillo Park Pharmacy and James Gee are subject to disciplinary action  
5 under Code section 4301(o), for violating title 16, California Code of Regulations, section 1718,  
6 in that they did not maintain a current inventory of controlled substances, alprazolam, oxycodone,  
7 hydrocodone/APAP and hydromorphone, and suffered losses in their inventory of  
8 hydrocodone/APAP and hydromorphone, as set forth in paragraphs 26 through 33 above, which  
9 are incorporated herein by reference.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Failure to Report Drug Losses against Respondents**  
12 **Cabrillo Park Pharmacy and James Gee)**

13 35. Respondents Cabrillo Park Pharmacy and James Gee are subject to disciplinary action  
14 under Code section 4301(o), for violating title 16, California Code of Regulations, section 1715.6,  
15 in that they did not report the losses of controlled substances, hydrocodone/APAP and  
16 hydromorphone to the Board, as set forth in paragraphs 26 through 33 above, which are  
17 incorporated herein by reference.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Failure to Provide Adequate Security for Controlled Substance**  
20 **against Respondents Cabrillo Park Pharmacy and James Gee)**

21 36. Respondents Cabrillo Park Pharmacy and James Gee are subject to disciplinary action  
22 under Code section 4301(o), for violating title 16, California Code of Regulations, section  
23 1714(b), in that they did not provide adequate security for controlled substances,  
24 hydrocodone/APAP and hydromorphone, as set forth in paragraphs 26 through 33 above, which  
25 are incorporated herein by reference.  
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**FOURTH CAUSE FOR DISCIPLINE**

**(Failure to Maintain Records of Acquisition)**

37. Respondents Cabrillo Park Pharmacy and James Gee are subject to disciplinary action under Code sections 4301(o), for violating Code section 4081(a), in that they failed to maintain all the records of acquisition for the controlled substances, alprazolam 2mg and oxycodone 30mg, as set forth in paragraphs 26 through 33, which are incorporated herein by reference.

**FIFTH CAUSE FOR DISCIPLINE**

**(Failing to Comply with Corresponding Responsibility**

**for Legitimate Controlled Substance Prescriptions against Respondents)**

38. Respondents are subject to disciplinary action under Code section 4301(j), for violating Health and Safety Code section 11153(a), in that they failed to comply with their corresponding responsibility to ensure that controlled substances were dispensed for a legitimate medical purpose when Respondents furnished prescriptions for controlled substances even though "red flags" were present, indicating those prescriptions were not issued for a legitimate medical purpose, as set forth in paragraphs 26 through 33 above, which are incorporated herein by reference.

**SIXTH CAUSE FOR DISCIPLINE**

**(Dispensing Controlled Substance Prescriptions with Significant Errors, Omissions,**

**Irregularities, Uncertainties, Ambiguities or Alterations against Respondents)**

39. Respondents are subject to disciplinary action under Code section 4301(o), for violating title 16, California Code of Regulations, sections 1761(a) and (b) in that they dispensed prescriptions for controlled substances, which contained significant errors, omissions, irregularities, uncertainties, ambiguities or alterations, as set forth in paragraphs 26 through 33 above, which are incorporated herein by reference.

1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Review Patients' Medication Record Before Prescription Drugs Delivered**  
3 **against Respondents)**

4 40. Respondents are subject to disciplinary action under Code section 4301(o), for  
5 violating title 16, California Code of Regulations, section 1707.3, in that they dispensed  
6 prescriptions for drugs, without review of patients' medication records before each prescription  
7 drug was delivered. Such a review would have revealed numerous "red flags," as set forth in  
8 paragraphs 26 through 33 above, which are incorporated herein by reference.

9 **EIGHTH CAUSE FOR DISCIPLINE**

10 **(Dispensing Controlled Substances with Variations from Prescriptions against**  
11 **Respondents Cabrillo Park Pharmacy and James Gee)**

12 41. Respondents Cabrillo Park Pharmacy and James Gee are subject to disciplinary action  
13 under Code section 4301(o) for violating title 16, California Code of Regulations, section 1716, in  
14 that they dispensed controlled substances which deviated from the requirements of the  
15 prescriptions without the prior consent of the prescribers and dispensed controlled substances  
16 when the prescriptions were prescribed by Dr. M.S. but signed by another physician, as set forth  
17 in paragraphs 26 through 33, which are incorporated herein by reference.

18 **NINTH CAUSE FOR DISCIPLINE**

19 **(Failure to Exercise or Implement Best Professional Judgment or Corresponding**  
20 **Responsibility when Dispensing Controlled Substances**  
21 **against Respondents James Gee and Soong Chang)**

22 42. Respondents James Gee and Soong Chang are subject to disciplinary action under  
23 Code section 4301(o), for violating Business and Professions Code section 4306.5(a) and (b), in  
24 that they failed to exercise or implement his or her best professional judgment or corresponding  
25 responsibility when dispensing controlled substances, as set forth in paragraphs 26 through 33  
26 above, which are incorporated herein by reference.

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**TENTH CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct against Respondents James Gee and Soong Chang)**

43. Respondents James Gee and Soong Chang are subject to disciplinary action under Code section 4301 for unprofessional conduct in that they engaged in the activities described in paragraphs 26 through 33 above, which are incorporated herein by reference.

**DISCIPLINARY CONSIDERATIONS**

44. To determine the degree of discipline, if any, to be imposed on Respondents, Complainant alleges:

a. On February 22, 2012, the Board issued Citation number CI 2011 49857 against Respondent Cabrillo Park Pharmacy for violating Business and Professions Code section 4126.5(a)(4) for improperly furnishing drugs to a wholesaler. The Board issued a fine which Respondent paid.

b. On February 23, 2012, the Board issued a Letter of Admonishment to Respondent James Gee for violating Business and Professions Code section 4126.5(a)(4) for improperly furnishing drugs to a wholesaler.

c. On March 10, 1999, the Board issued Citation Number CI 1996 14411 against Soong Chang for violating title 16, California Code of Regulations, section 1707.2 for failing to provide oral consultation to a patient. The Board issued a fine which Respondent paid.

**PRAYER**

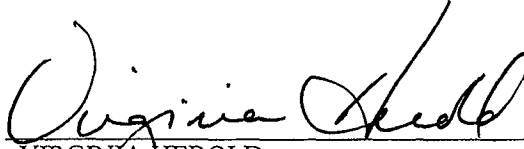
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

- 1. Revoking or suspending Pharmacy Permit Number PHY 50066, issued to Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park Pharmacy;
- 2. Revoking or suspending Pharmacist License Number RPH 45540, issued to Soong OK Chang;
- 3. Revoking or suspending Pharmacist License Number RPH 44796, issued to James Ying-Ming Gee;

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4. Ordering Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park Pharmacy,  
Soong OK Chang and James Ying-Ming Gee to pay the Board of Pharmacy the reasonable costs  
of the investigation and enforcement of this case, pursuant to Business and Professions Code  
section 125.3;

5. Taking such other and further action as deemed necessary and proper.

DATED: 10/4/14   
VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
Complainant

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